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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

E.M., Plaintiff and Appellant, v. J.R. et al., Defendants and Respondents.	B288718 Los Angeles County Super. Ct. No. 17STPB06189

APPEAL from orders of the Superior Court of Los Angeles County, William Barry, Judge. Reversed and remanded with directions.

Law Offices of Violeta Delgado and Violeta Delgado for Plaintiff and Appellant.

No Appearance for Defendants and Respondents.

INTRODUCTION

E.M. is a 20-year-old immigrant from El Salvador. In this uncontested matter, he challenges the superior court's orders denying his petition for appointment of a guardian and finding moot his related petition for an order making the necessary findings for E.M. to apply to the United States Citizenship and Immigration Services (USCIS) for special immigrant juvenile status under federal immigration law. Because we find the court applied the wrong legal standard in denying E.M.'s guardianship petition and should have considered his petition for special immigrant juvenile findings, we reverse and remand with directions.

BACKGROUND

This is not a typical guardianship matter. E.M. is over 18 years old and petitioned for the appointment of a guardian in connection with a petition asking the court to make special immigrant juvenile findings. We thus begin by describing the law governing the requirements for an immigrant to petition for special immigrant juvenile status under federal immigration law and the California law enacted to enable an immigrant to obtain the findings required to file such a petition. We then describe the factual and procedural background relating to E.M.'s petitions.[1]

1. *Interplay between guardianship petition and petition for special immigrant juvenile findings*

a. *Special immigrant juvenile status*

Federal immigration law sets forth a procedure for certain immigrants to obtain classification as a special immigrant juvenile (SIJ). "Congress first established SIJ classification in 1990 to provide relief to immigrant children who were eligible for

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[1] We state the facts as described in E.M.'s petitions and supporting declarations.

long-term foster care and whose interests would not be served by returning to their country of origin." (*Bianka M. v. Superior Court* (2018) 5 Cal.5th 1004, 1012 (*Bianka*) [citing Immigration Act of 1990; Pub.L. No. 101-649 (Nov. 29, 1990) 104 Stat. 4978].) Congress has since amended the law to eliminate the foster care eligibility requirement. (*Id.* at pp. 1012-1013 [citing William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008; Pub.L. No. 110-457, § 235(d)(1)(A) (Dec. 23, 2008) 122 Stat. 5044].)

Now, an unmarried immigrant under 21 years of age is eligible for SIJ status if: (1) the immigrant "is a dependent of a juvenile court, in the custody of a state agency by court order, or in the custody of an individual or entity appointed by the court"; (2) the immigrant "cannot reunify with one or both parents due to abuse, neglect, abandonment, or a similar basis found under state law"; and (3) it is not in the immigrant's "best interest to return to his or her home country or the home country of his or her parents." (*Bianka, supra*, 5 Cal.5th at p. 1013; 8 U.S.C. § 1101(a)(27)(J)(i)-(iii) (SIJ statute); 8 C.F.R. § 204.11(c)(1)-(2) (2009).) Federal immigration regulations require these findings "to be made in the course of state court proceedings." (*Bianka, supra*, 5 Cal.5th at p. 1013.)[2]

USCIS reviews SIJ applications. (*Bianka, supra*, 5 Cal.5th at p. 1013.) An immigrant may not apply for SIJ status, however,

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[2] The federal regulations implementing the SIJ statute have not been updated to reflect statutory changes from 2008 and still list long-term foster care as an eligibility requirement rather than inability to reunify with one or both parents due to abuse, neglect, abandonment, or a similar basis under state law. (8 C.F.R. § 204.11(c)(4) (2009); see *Bianka, supra*, 5 Cal.5th at p. 1013, fn. 3.)

without first obtaining a predicate state court order (or orders) that makes the factual findings described above. (8 C.F.R. § 204.11(d)(2)(i)-(iii) (2009) [order(s) evidencing court's findings of SIJ eligibility must be submitted with petition].) "Once granted, SIJ status permits a recipient to seek lawful permanent residence in the United States, which, in turn, permits the recipient to seek citizenship after five years." (*Bianka*, at p. 1013 [citing 8 U.S.C. §§ 1255, 1427].)

Code of Civil Procedure section 155 (section 155), subdivision (a)(1) confers jurisdiction on the superior courts of California, including the probate division, "to make the factual findings necessary to enable a child to petition [USCIS] for classification as a [SIJ]" under the SIJ statute (SIJ findings). Additionally, section 155 *requires* the superior court on request to issue an order including "the necessary findings regarding [SIJ] status" if "there is evidence to support those findings, which may consist solely of, but is not limited to, a declaration by the child who is the subject of the petition." (§ 155, subd. (b)(1).)

b. *Appointment of guardians for immigrants 18 to 20 years old*

Under the federal regulations, SIJ status is available to unmarried immigrants under 21 years of age if a state court has made the predicate SIJ findings. (8 C.F.R. § 204.11(c)(1)-(2) (2009); see Stats. 2015, ch. 694, § 1(a)(2).) Yet, before 2016, immigrants between 18 and 21 years of age in California "largely" were unable to obtain those necessary findings from a superior court "solely because probate courts [could not] take jurisdiction of individuals 18 years of age or older by establishing a guardianship of the person." (Stats. 2015, ch. 694, § 1(a)(5).)

To enable immigrants who had reached the age of 18 to obtain the predicate SIJ findings required for them to petition for SIJ status, the Legislature enacted section 1510.1 of the Probate

Code (section 1510.1).[3] That section authorizes the court to appoint, with the individual's consent, a guardian of the person for an unmarried individual who is 18 to 20 years old "in connection with a petition to make the necessary findings regarding" SIJ status under section 155, subdivision (b). (§ 1510.1, subd. (a)(1).) For purposes of guardianship proceedings, the statute deems "the terms 'child,' 'minor,' and 'ward' " to include those individuals under 21 years old who consent to the appointment of a guardian. (§ 1510.1, subd. (d).) In enacting section 1510.1, the Legislature declared its intent "to provide an avenue for a person between 18 and 21 years of age to have a guardian of the person appointed beyond 18 years of age in conjunction with a request for the findings necessary to enable the person to petition [USCIS] for classification as a [SIJ]." (Stats. 2015, ch. 694, § 1(b).)

It is under section 1510.1 that E.M. qualified to petition for the appointment of a guardian of a minor.

2. *E.M.'s background*

E.M. was born in El Salvador in December 1998. When he was about three years old, his father moved to the United States, while E.M. stayed in El Salvador with his mother and sister. E.M.'s father sent money to the family monthly and called on the weekends.

E.M.'s mother sent him to work when he was 13. He farmed his family's land daily, beginning at 5 a.m. After work, he went to school at 1 p.m.

E.M. encountered members of the infamous MS-13 gang at school. After school, gang members would try to recruit him and extort money from him. They threatened to hurt him if he did

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[3] Section 1510.1 became effective January 1, 2016.

not join the gang. E.M. was afraid they would kill him. E.M. never reported the gang's threats to the police because "[i]t is a well-known fact that El Salvadoran police work side by side with the gangs and other criminal organizations." He told his parents "how difficult it was" for him to go to school.

E.M., his mother, and his sister came to the United States in July 2014 to escape the violence they faced in El Salvador. The family reunited with E.M.'s father, but his parents were unhappy. E.M.'s mother left E.M. and his father in May 2015 when E.M. was 16.

E.M's mother lives with E.M.'s sister in Washington, D.C. E.M. does not receive financial support from his mother and she rarely calls him. E.M.'s father has been his "emotional and financial support" since E.M. arrived in the United States. His father and Jose R. (Jose), the proposed guardian, provide "all [his] necessities."

E.M. met Jose through his father. Jose works with E.M.'s father and lives only a few streets away from them. Jose is like an uncle to E.M. Jose considers himself to be a second father to E.M. Jose and E.M. visit each other at least twice a week and talk on the phone. Jose has been motivating E.M. to "go back to school [and] seek higher education." At the time of his declaration in March 2017, E.M. was attending a college preparatory school in Van Nuys.

Unlike E.M.'s mother, Jose does not want E.M. to work, but to focus on getting an education. Jose declared he wants E.M. "to study here in the United States and not worry about working." He tries "to guide [E.M.] here and tr[ies] to keep him on the right path." E.M. found living with his mother "difficult" because he "was never able to fully dedicate [himself] to studying." He "knows" she would send him to work if he "only

lived with her here" because "[s]he does not value education the way [his] father does."

E.M. declared he has nothing to go back to in El Salvador. He has uncles there, but they have their own children to support and cannot protect E.M. from the gangs. Jose is "scared" for E.M. because of the gangs in El Salvador. E.M. is "happy with . . . Jose's support and care. [He] feel[s] safe in California because the gangs are no longer bothering [him.]" He is "driven to learn English[,] and [he is] getting accustomed to [his] new reality."

3. *Procedural background*

In July 2017, E.M. filed a petition for appointment of guardian of a minor,[4] requesting Jose be appointed guardian of his person. The petition included E.M.'s and Jose's supporting declarations, dated March and May 2017, respectively. Both E.M.'s father and mother nominated Jose as E.M.'s legal guardian and consented to his appointment. E.M. also consented to Jose's appointment as his guardian. E.M. filed his petition for SIJ findings in September 2017.

The court heard E.M.'s petitions on November 29, 2017. At the hearing, the court stated it did not "consider separation of two married people to be abandonment of the minor, especially since he's 18." E.M.'s counsel argued E.M.'s mother had moved out of the state and had not financially supported him for over a year. The court concluded E.M.'s mother had no obligation to support E.M. once he turned 18 and found there was no abandonment to support a guardianship. The court denied E.M.'s counsel's request to file a memorandum in support of the petition and denied the petition for guardianship. The court then found the petition for SIJ findings moot.

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4 E.M. was considered a minor under section 1510.1.

The court's minute orders denied both petitions without prejudice. The minute order denying the guardianship petition states, "The Court finds that insufficient evidence has been provided to grant [the petition for guardianship] . . . based upon the reading of the moving papers and consideration of all presented evidence."

E.M. filed a timely notice of appeal.[5]

DISCUSSION

E.M. contends the trial court abused its discretion when it denied his guardianship petition because it applied the wrong legal standard and failed to take into account E.M. and his parents' wishes. He also contends the trial court erred in finding his petition for SIJ findings moot and argues the evidence demonstrates he cannot reunify with his mother due to abuse, neglect, abandonment, or a similar basis under California law. Finally, E.M. contends the trial court erred when it denied his counsel's motion for a continuance to file a memorandum in support of the petitions. Because we reverse the trial court's orders and remand for further proceedings, we need not consider if the court erred in denying the motion for a continuance.

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[5] The denial of a guardianship petition is an appealable order. (Prob. Code, § 1301, subd. (a); Code Civ. Proc., § 904.1, subd. (a)(10).) E.M. filed his notice of appeal from the November 29, 2017 orders on March 5, 2018. The record does not show that a "Notice of Entry" of the order denying E.M.'s petition was served. (Cal. Rules of Court, rule 8.104(a)(1).) E.M. therefore timely filed his notice of appeal within 180 days of the entry of the orders. (*Id.*, rule 8.104(a)(1)(C); *Annette F. v. Sharon S.* (2005) 130 Cal.App.4th 1448, 1455-1456 [180-day period applied where record on appeal did not show if notice of entry of order was mailed by clerk or served].)

1. *Law governing guardianship petitions and standards of review*

After hearing a petition for the appointment of a guardian of a minor, "the court may appoint a guardian of the person" of a proposed ward "if it appears necessary or convenient." (Prob. Code, § 1514, subd. (a).) "In appointing a guardian . . . , the court is governed" by the Family Code provisions "relating to custody of a minor," including sections 3020 et seq. and 3040 et seq. (Prob. Code, § 1514, subd. (b)(1).)

Section 3020 of the Family Code states California's public policy "to ensure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interests of children when making any orders regarding the physical or legal custody or visitation of children." (Fam. Code, § 3020, subd. (a).) Family Code section 3040 reiterates custody should be granted "according to the best interest of the child as provided in Sections 3011 and 3020." (*Id*., § 3040, subd. (a).) Section 3011 in turn provides the court must consider "[t]he health, safety, and welfare of the child" in considering his or her best interests. (*Id*., § 3011, subd. (a).) Thus, the "best interests" of the proposed ward govern the court's determination of whether the appointment of a guardian is " 'necessary or convenient.' " (*Guardianship of Pankey* (1974) 38 Cal.App.3d 919, 927.) The court also must "consider and give due weight to the nomination of a guardian of the person of the child by a parent" under the Probate Code (Fam. Code, § 3043), and to "the wishes of the child in making an order granting or modifying custody or visitation" (*id*., § 3042, subd. (a)).

The appointment of a guardian " 'is a matter lying within the sound discretion of the court and the conclusion reached will not be set aside on appeal unless it is shown to have been reached as a result of an abuse of discretion.' " (*In re Guardianship of*

Morris' Estate (1951) 107 Cal.App.2d 758, 762-763.) "The abuse of discretion standard is not a unified standard; the deference it calls for varies according to the aspect of a trial court's ruling under review. The trial court's findings of fact are reviewed for substantial evidence, its conclusions of law are reviewed de novo, and its application of the law to the facts is reversible only if arbitrary and capricious." (*Haraguchi v. Superior Court* (2008) 43 Cal.4th 706, 711-712.)

2. *The court applied the wrong standard when it denied E.M.'s petition for guardianship*

The court was authorized under section 1510.1 to appoint a guardian of the person for E.M., who was an unmarried, 18-year-old when he filed his guardianship petition, and who also had filed a petition for SIJ findings. As a "minor" includes individuals petitioning for guardianship under section 1510.1, the court was governed by the best interests of E.M. in determining whether the appointment of Jose as his guardian was "necessary or convenient" under Probate Code section 1514.

The court seems to have conflated the findings required for an individual to petition for classification as a special immigrant juvenile—i.e., that he cannot reunify with one or both parents due to abuse, neglect, abandonment, or a similar basis under state law—and the requirements for appointing a guardian of the person. The trial court denied E.M.'s guardianship petition on the ground he had not been abandoned because he was 18 and his mother no longer had an obligation to support him, stating:

> "[O]n the guardianship petition, I'm not going to deem this to be an abandonment. And those are the only facts that have been shown to me that would substantiate a guardianship in this instance. The mother and father live in the United States. Their marriage has gotten to the point where they have

separated. He's 18. There's no obligation to support him anymore. I just don't see it."

When a petition to appoint a guardian is uncontested, as it was here, the court need only find the guardianship is necessary or convenient, in light of the best interests of the proposed ward. (Prob. Code, § 1514, subds. (a), (b)(1); *In re D.H.* (2017) 14 Cal.App.5th 719, 737-738 (conc. & dis. opn.); compare Fam. Code, § 3041, subd. (a) [when granting custody to nonparent over parent's objection court must find granting custody to parent would be detrimental to child].) Here, the court did not consider if appointment of Jose as guardian over E.M.'s person was necessary or convenient or if it was in E.M.'s best interests, but denied the petition solely because E.M. had not been abandoned. Yet, even where a parent objects to the appointment of a guardian—which is not the case here—the petitioner need not "allege, or prove, abuse, neglect, or abandonment" to establish a guardianship is "necessary or convenient." (*Guardianship of Olivia J.* (2000) 84 Cal.App.4th 1146, 1156.) Thus, by denying the petition on the ground E.M. had not been abandoned, the court applied the wrong legal standard and abused its discretion. The court first should have determined whether the appointment of the proposed guardian was necessary *or* convenient, in light of E.M.'s best interests and taking into account E.M's and his parents' wishes.

We cannot find this error was harmless. E.M. presented evidence from which the court could find the appointment of Jose as E.M.'s guardian was at least convenient. E.M., his mother, and his father all consented to the appointment of Jose as E.M.'s guardian, and Jose declared he considers E.M. his son. E.M. lives with his father, but—except in certain circumstances not at issue here—Probate Code section 1514 does not permit E.M.'s father to be nominated his guardian. (Prob. Code, § 1514, subd. (b)(2).)

E.M. also presented evidence appointment of Jose as his guardian is in his best interests. Jose is guiding E.M. and "try[ing] to keep him on the right path." He wants E.M. to "succeed academically . . . and not worry about working," encourages him to continue his studies, and provides him "support and care." E.M. "is happy and secure under the care of Jose." And, if E.M. successfully petitions USCIS to remain in the country as an SIJ, he will avoid gang threats and potential violence, and be able to continue his schooling.

Accordingly, we reverse the court's order denying E.M.'s petition and remand for the court to determine whether appointing Jose as E.M.'s guardian is necessary or convenient in light of what is best for E.M.'s health, safety, and welfare and taking into account E.M.'s and his parents' wishes. (Fam. Code, §§ 3011, subd. (a), 3042, subd. (a), 3043.)

3. *On remand, the court must make SIJ findings under section 155*

Under section 155, the court was required to make SIJ findings on E.M.'s request because he presented evidence to support those findings through his and Jose's declarations. (§ 155, subd. (b)(1).) The court found E.M.'s petition was moot because it denied the guardianship petition. On remand, however, if the court finds appointment of Jose as E.M.'s guardian is necessary or convenient and grants E.M.'s uncontested guardianship petition, it must then make the necessary factual findings for SIJ status under section 155, subdivision (b).

The court's appointment of a guardian of E.M.'s person will qualify E.M. as having been "placed under the custody of . . . an individual or entity appointed by a State or juvenile court," the first required SIJ finding under section 155, subdivision (b)(1). (8 U.S.C. § 1101(a)(27)(J)(i); *B.F. v. Superior Court* (2012) 207

Cal.App.4th 621, 629 [minors appointed guardians by probate court eligible for SIJ status]; *Matter of Trudy-Ann W. v. Joan W.* (App.Div. 2010) 901 N.Y.S.2d 296, 299 [" 'appointment of a guardian constitutes the necessary declaration of dependency on a juvenile court' for [SIJ] status purposes"].) The court will then be left to determine (1) whether E.M.'s reunification with his mother is not viable because of neglect or abandonment,[6] and (2) whether it is not in E.M.'s best interest to be returned to El Salvador. (§ 155, subd. (b)(1)(B), (C); 8 U.S.C. § 1101(a)(27)(J)(i), (ii).)

The trial court is in the best position to make these findings, as it has the ability to question E.M. at a hearing on remand. We provide guidance to the court, however, as we question the court's conclusion that E.M. could not have been "abandoned" by his mother because she was not obligated to support him financially once he turned 18.

a. *Inability for immigrant to reunify due to abandonment by one or both parents*

The second necessary SIJ finding is that the immigrant cannot reunify with one or both parents due to abuse, neglect, abandonment, or a similar basis under California law. (§ 155, subd. (b)(1)(B); 8 U.S.C. § 1101(a)(27)(J)(i).) Courts of Appeal have interpreted the SIJ statute's requirement that the immigrant cannot reunify "with one or both parents" to apply to immigrants under 21 "who can reunify with one parent but not the other." (*Bianka, supra*, 5 Cal.5th at p. 1013, fn. 2 [citing *Eddie E. v. Superior Court* (2015) 234 Cal.App.4th 319, 327 (inability to reunify with one parent due to abuse, neglect,

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[6] In his petition for SIJ findings, E.M. checked both neglect and abandonment as reasons he could not reunify with his mother.

abandonment, or a similar basis under state law satisfies SIJ statute); *In re Israel O.* (2015) 233 Cal.App.4th 279, 291 (juvenile abandoned by father but released to mother's home entitled to finding he could not reunify with one or both parents under SIJ statute)].) Thus, if E.M. is deemed abandoned by his mother, he may qualify for SIJ status even if his father has not neglected, abused, or abandoned him. (See, e.g., *Matter of Karen C.* (App.Div. 2013) 973 N.Y.S.2d 810, 812 [under 21-year-old living with mother and coguardian who could not reunify with father due to abandonment satisfied SIJ statute].)

Although the court found E.M.'s mother did not abandon him for purposes of E.M.'s guardianship petition, it must reconsider the issue to determine if E.M. is unable to reunify with his mother due to her abandonment (or neglect) for purposes of E.M.'s petition for SIJ findings. Section 155 and the SIJ statute do not define abandonment. The Family Code, however, contains two definitions of "abandonment." For purposes of California's Uniform Child Custody Jurisdiction and Enforcement Act, abandonment occurs when a parent leaves a child "without provision for reasonable and necessary care or supervision." (Fam. Code, § 3402, subd. (a).) Under section 7822, for purposes of terminating a parent's rights before a child's adoption, a child is abandoned if left "in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent, with the intent on the part of the parent to abandon the child." (*Id.*, § 7822, subd. (a)(3).)[7]

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[7] A child also is abandoned if both parents or the sole parent leaves the child in a nonparent's custody without support or communication for six months. (Fam. Code, § 7822, subd. (a)(2).)

On remand, the court should apply the definition found in Family Code section 3402. The SIJ statute focuses on the youth's current ability to reunify with one or both parents; whether the parent or parents' abandonment was intentional or unintentional, its impact on the child's welfare and ability to be cared for in his home country is the same. For that reason, we conclude proof of intentional abandonment, as provided in section 7822, subdivision (a), is not required for purposes of finding a child cannot reunify with a parent because of abandonment under section 155, subdivision (b)(1)(B).[8]

E.M. presented evidence from which the court could conclude his mother left him without providing for his care, which is abandonment as defined by California law. E.M. declared his mother left him when he was 16, more than a year before he turned 18. He also declared he does not receive financial support from his mother, and she rarely communicates with him. E.M.'s father and proposed guardian Jose "are solely providing [him] all [his] necessities." The court does not appear to have considered whether E.M.'s mother stopped providing financial support for E.M.'s care when she left him at age 16. At the hearing, the court did not hear testimony from E.M. or question him about the subject. Rather, the court seems to have considered only the mother's current lack of support in concluding she did not abandon E.M. because she was not obligated to support him at the time E.M. filed his petition.

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[8] In his brief, E.M. cited the definition found in section 7822, subdivision (a). Sections 3402 and 7822 essentially require the same showing—that a parent failed to provide for or support the child—but section 7822 also requires that the parent's abandonment was intentional.

We also note the court's conclusion that E.M.'s mother was not required to support him once he turned 18 was not a complete statement of the law. The Family Code imposes on "the father and mother of a minor child . . . equal responsibility to support their child." (Fam. Code, § 3900.) That duty "continues as to an unmarried child who has attained 18 years of age, is a full-time high school student, . . . and who is not self-supporting, until the time the child completes the 12th grade or attains 19 years of age, whichever occurs first." (*Id.*, § 3901, subd. (a)(1).) When E.M. signed his declaration in March 2017, he was under 19 years old and attending high school full-time, and his mother was not supporting him—financially or emotionally.

We cannot conclude E.M. cannot be found to have been abandoned preventing his reunification with his mother simply because she may not be obligated to support him anymore. E.M. could be found unable to reunify with his mother based on her earlier abandonment. Thus, on remand, in determining whether E.M. cannot reunify with his mother due to abandonment, the court should consider mother's past and present lack of support. As E.M. also cited neglect in his petition for special findings, the court also should consider if E.M.'s reunification with his mother is not viable due to her neglect.

b. *Return to native country not in immigrant's best interests*

The third SIJ finding the court must make is whether it is not in E.M.'s best interest to return to El Salvador. (§ 155, subd. (b)(1)(C); 8 U.S.C. § 1101(a)(27)(J)(ii).) The court did not consider this issue because it found the petition for SIJ findings moot. We leave it to the trial court to make this finding on remand, but note that, on the record before us, E.M.'s return to El Salvador, where he will have no support, be unable to continue

his education, and be subjected to gang threats and potential violence, does not seem to be in E.M.'s best interest.

Finally, we note the role of a state court " 'in the SIJ process is not to determine worthy candidates for citizenship, but simply to identify abused, neglected, or abandoned alien children under its jurisdiction who cannot reunify with a parent or be safely returned in their best interests to their home country.' " (*Bianka, supra*, 5 Cal.5th at p. 1025.) " 'The juvenile court need not determine any other issues, such as what the motivation of the juvenile in making application for the required findings might be [citations]; whether allowing a particular child to remain in the United States might someday pose some unknown threat to public safety [citation]; and whether the USCIS . . . may or may not grant a particular application for adjustment of status as a SIJ.' " (*Leslie H. v. Superior Court* (2014) 224 Cal.App.4th 340, 351.) Under section 155 "a court must issue findings relevant to SIJ status, if factually supported, regardless of its assessment of the child's perceived motivations in invoking the court's jurisdiction." (*Bianka*, at p. 1024 [citing § 155, subd. (b)(2)].) Thus, "a conclusion that a proceeding is primarily motivated by a desire to secure SIJ findings is not a ground for declining to issue the findings." (*Id.* at p. 1025.)

We note E.M. will turn 21 in December 2019. At that point, he no longer will be eligible to petition USCIS for SIJ status. We therefore direct the superior court to set the matter for hearing on remand as soon as practicable.

DISPOSITION

We reverse the superior court's orders denying E.M.'s petition for appointment of guardian of a minor and petition for special immigrant juvenile findings and remand for further proceedings consistent with this opinion. On remand the superior court shall set a hearing on the petitions as soon as practicable (1) to determine if appointment of the nominated guardian is necessary or convenient, and (2) if the court grants E.M.'s guardianship petition, to make the necessary SIJ findings under Code of Civil Procedure section 155, subdivision (b). Appellant E.M. is to bear his own costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EGERTON, J.

We concur:

EDMON, P.J.

LAVIN, J.